

REMARKS

Claims 1 – 30 are pending in the application. Claims 21-30 have been withdrawn as directed to nonelected subject matter. Claims 2 – 3, 14 - 15 and 19 have been cancelled without prejudice and disclaimer to the subject matter contained therein. Applicants reserve the right to reassert any of the claims canceled herein or the original claim scope of any claim amended herein in a continuing application. Claims 1, 4 – 12, and 14 – 18 have been amended solely for the purposes of advancing prosecution. The amendments are supported throughout the application as originally filed and do not add any new matter within the meaning of 35 USC §132. Therefore entry of the amendments is respectfully requested.

I. REJECTION UNDER 35 USC §112, SECOND PARAGRAPH

The Examiner asserts that claims 2, 4, 6-12, and 14-18 are indefinite for failing to particularly point out and distinctly claim the subject matter with Applicant regard as the invention. To wit the rejected claims recite a broad limitation followed by a narrow limitation, thereby rendering the claim unclear.

Applicant respectfully submits that each of the rejected claims has been amended to clarify the claimed subject matter, and as such overcome the grounds for rejection.

On these bases, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection.

II. REJECTION UNDER 35 USC §102(b) BASED ON GB 697,294

The Examiner has rejected claims 1 – 2, 9, 16 and 20 under 35 USC 102(b) as being anticipated by GB 697,294 (GB ‘294).

Applicant respectfully traverses this rejection. The instantly rejected claims are patentably distinguishable over GB ‘294.

Instant claim 1 is directed to:

A process for patinating articles comprising copper or a copper alloy by means of an aqueous patination solution containing copper ions, wherein the article is treated with the patination solution, and the article which has been treated in this way is subjected to a maturing process, wherein during the maturing process, temperature and atmospheric humidity are controlled in a temperature- and humidity-controlled chamber, and wherein the maturing process encompasses the following maturing steps:

- allowing the treated article to rest at a first rest temperature and a first rest atmospheric humidity for a first rest time,***
- irrigating the treated article at least once at an irrigation temperature and an irrigation atmospheric humidity for an irrigation time, and***
- allowing the treated article to rest at a second rest temperature and a second rest atmospheric humidity for a second rest time.***

Amended claims 9, 16 and 20 depend either directly or indirectly from claim 1, and therefore contain all of the limitations recited therein.

Thus, the instant subject matter requires that the maturing process has temperature and atmospheric humidity which are controlled in a temperature- and humidity-controlled chamber. On the other hand, GB'294 teaches a process of patinating copper articles by applying an aqueous coating solution by spraying. The solution comprises copper ions.

Accordingly, GB '294 does not disclose the multistep process of the instant claims, and specifically those in previously pending claims 2 and 3 of the instant application. Amended claim 1 now includes the limitations previously found in claims 2 and 3. As such, the instant claims are not anticipated by GB '294, because the claim elements directed to a process for patinating copper articles in a multi-step treatment in a temperature and humidity controlled climate chamber are not shown in GB '294.

Applicants respectfully submit that the instantly rejected claims are patentably distinguishable over GB '294, and therefore the reference does not anticipate the rejected claims. As such, the grounds for rejection are overcome.

On these bases, Applicants respectfully request the Examiner to reconsider and withdraw the rejection.

III. REJECTION UNDER 35 USC §102(b) BASED ON JP 2003-089880

The Examiner has rejected claims 1 – 6, 9 – 10, 12 – 13, 16 – 18 and 20 under 35 USC 102(b) as being anticipated by JP 2003-089880 (JP '880).

Applicants respectfully traverse this rejection. The instantly rejected claims are patentably distinguishable over JP '880.

Instant claim 1 is directed to:

A process for patinating articles comprising copper or a copper alloy by means of an aqueous patination solution containing copper ions, wherein the article is treated with the patination solution, and the article which has been treated in this way is subjected to a maturing process, wherein during the maturing process, temperature and atmospheric humidity are controlled in a temperature- and humidity-controlled chamber, and wherein the maturing process encompasses the following maturing steps:

- allowing the treated article to rest at a first rest temperature and a first rest atmospheric humidity for a first rest time,*
- irrigating the treated article at least once at an irrigation temperature and an irrigation atmospheric humidity for an irrigation time, and*
- allowing the treated article to rest at a second rest temperature and a second rest atmospheric humidity for a second rest time.*

Amended claims 4 - 6, 9 – 10, 12 – 13, 16 – 18 and 20 depend either directly or indirectly from claim 1, and therefore contain all of the limitations recited therein.

Thus, the instant subject matter requires a multi-step treatment for the maturing process utilizing a temperature- and humidity-controlled chamber. The use of a maturing process for patination of copper parts according to the instant subject matter offers advantage with regard to optics and quality of patina produced in that a uniform and intensive color impression is produced.

On the other hand, JP '880 teaches a patina color emitting composition liquid containing cupric acid chloride and sodium carbonate with at least one solution chosen from sodium chloride, aluminum chloride, zinc chloride, and chloridation tin. JP '880 teaches applying the liquid on the substrate in an open condition.

Accordingly, JP '880 does not disclose the multistep process of the instant claims, and specifically those steps recited in previously pending claims 2 and 3 of the instant application. Amended claim 1 now includes the limitations previously found in claims 2 and 3. As such, the instant claims are not anticipated by JP '880, because the claim elements directed to a process for patinating copper articles in a multistep treatment in a temperature and humidity controlled climate chamber are not shown in JP '880.

Applicants respectfully submit that the JP '880 does not teach each and every element of the rejected claims, and therefore the reference does not anticipate the rejected claims. As such, the grounds for rejection are overcome.

On these bases, Applicants respectfully request the Examiner to reconsider and withdraw the rejection.

IV. REJECTION UNDER 35 USC §103(a) BASED ON JP 2003-089880

The Examiner has rejected claims 7 -8 and 11 under 35 USC 103(a) as being rendered obvious in view of JP 2003-089880 (JP '880).

Applicants respectfully traverse this rejection. As stated in MPEP § 2143.03, “[i]f an independent claim is nonobvious under 35 USC 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).”

From the outset, Applicants respectfully submit that a *prima facie* case of obviousness has not been established for at least the reason that independent claim 1, from which the rejected claims depend, is not rejected as obvious. As discussed, if an independent claim is nonobvious under 35 USC 103, then any claim depending therefrom is nonobvious

Furthermore, even if claim 1 were rejected on these grounds, JP '880 does not teach each and every element of the instant claims and therefore no *prima facie* case has been made.

Instant claim 1 is directed to:

A process for patinating articles comprising copper or a copper alloy by means of an aqueous patination solution containing copper ions, wherein the article is treated with the patination solution, and the article which has been treated in this way is subjected to a maturing process, wherein during the maturing process, temperature and atmospheric humidity are controlled in a temperature- and humidity-controlled chamber, and wherein the maturing process encompasses the following maturing steps:

- allowing the treated article to rest at a first rest temperature and a first rest atmospheric humidity for a first rest time,***
- irrigating the treated article at least once at an irrigation temperature and an irrigation atmospheric humidity for an irrigation time, and***
- allowing the treated article to rest at a second rest temperature and a second rest atmospheric humidity for a second rest time.***

Rejected claims 7 – 8 and 11 depend either directly or indirectly from claim 1, which is not rejected, and therefore contain all of the limitations recited therein.

Thus, the instant subject matter requires a multi-step treatment for the maturing process utilizing a temperature- and humidity-controlled chamber. The use of a maturing process for patination of copper parts according to the instant subject matter offers advantage with regard to optics and quality of patina produced in that a uniform and intensive color impression is produced.

On the other hand, JP '880 teaches a patina color emitting composition liquid containing cupric acid chloride and sodium carbonate with at least one solution chosen from sodium chloride, aluminum chloride, zinc chloride, and chloridation tin. JP '880 teaches applying the liquid on the substrate in an open condition.

Accordingly, JP '880 does not disclose the multistep process of the instant claims, and specifically those steps recited in previously pending claims 2 and 3 of the instant application. Amended claim 1 now includes the limitations previously found in claims 2 and 3. As such, the instant claims are not obvious in view of JP '880, because the claim elements directed to a process for patinating copper articles in a multistep treatment in a temperature and humidity controlled climate chamber are not shown in JP '880. Nothing in the teachings of JP '880 would lead one to the multistep process now claimed, specifically since the reference teaches away from the instantly claimed process by stating that a controlled environment is **not required**. See, JP '880, paragraphs 7 and 15

Applicants respectfully submit that the JP '880 teaches away from the presently pending claims, and therefore does not teach each and every element of the rejected claims. As such, JP '880 does not render the rejected claims obvious. As such, the grounds for rejection are overcome.

On these bases, Applicants respectfully request the Examiner to reconsider and withdraw the rejection.

V. REJECTION UNDER 35 USC §103(a) BASED ON JP '880 IN VIEW OF HOVELING IN U.S. PATENT NO. 5,376,190

The Examiner has rejected claims 14 and 15 under 35 USC 103(a) as being rendered obvious in view of JP '880 and further in view of Hoveling in U.S. Patent No. 5,376,190.

Applicants respectfully submit that claims 14 and 15 have been cancelled, thereby removing the bases for the rejection. On these grounds, Applicants respectfully request the Examiner to withdraw the rejection.

VI. REJECTION UNDER 35 USC §103(a) BASED ON JP 2003-089880

The Examiner has rejected claim 19 under 35 USC 103(a) as being obvious in view of JP '880 and further in view of Loye et al in U.S. Patent No. 4,416,940.

Applicants respectfully submit that claim 19 has been cancelled, thereby removing the basis for the rejection. On these grounds, Applicants respectfully request the Examiner to withdraw the rejection.


CONCLUSION

In light of the foregoing, Applicants submit that the application is in condition for immediate allowance. Early notice to that effect is earnestly solicited, Applicants respectfully request that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

THE NATH LAW GROUP



Gary M. Nath

Registration No. 26,965
Tanya E. Harkins
Registration No. 52,993
Customer No. 20259

Date: March 11, 2009

THE NATH LAW GROUP
112 S. West Street
Alexandria, VA 22314
Tel (703) 548-6284
Fax (703) 683-8396